

Opinion No. 76-17

May 30, 1976

BY: OPINION OF TONEY ANAYA, Attorney General Thomas Patrick Whelan, Jr.,
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TO: William S. Huey, Director, Department of Game and Fish, Villagra Building, Santa Fe, New Mexico 87501

QUESTIONS

Question

Do the 1976 amendments to the Game and Fish Bond Act authorize the State Game Commission to issue and sell up to two million dollars worth of bonds?

Conclusion

Yes.

OPINION

{*81} Analysis

Chapter 52, Laws 1976 (Special Session), amended several provisions of the Game and Fish Bond Act. Chapter 18, Laws 1964, as amended by Chapter 47, Laws 1968; Appendix 15.1, Vol. 2, part 2, NMSA, 1953 Comp., hereinafter referred to as "the Act." Section 1 of Chapter 52 amended Section 3 of the Act by changing the phrasing of the limitation on the amount of bonds authorized. The limitation was changed from "but not to exceed an aggregate of two million dollars" to "the total amount of such bonds issued under the authority of this Act shall not exceed two million dollars." Section 1, Chapter 52, also added the following provision to Section 3 of the Act: "The Commission shall report annually to the legislature any bonds issued pursuant to this act and the purpose for which issued."

Sections 2 and 3 of Chapter 52 amended Sections 4 and 5 of the Act by changing the maximum interest on the bonds from five percent a year to "the net effective interest rate per year as provided in the Public Securities Act." Section 4 of Chapter 52 amended Section 7 of the Act by increasing the amount of revenues from license sales which are to be deposited in the Game and Fish Bond Retirement Fund.

{*82} The purpose and effect of these amendments becomes clear when they are viewed in the light of the legislative history and of the circumstances extant at the time of their passage. We are guided by two principles of statutory interpretation in so viewing them. In construing legislative intent, courts examine the history and historical

background of the legislation. **Bradbury & Stamm Constr. Co. v. Bureau of Revenue**, 70 N.M. 226, 372 P.2d 808 (1902). Courts also assume the legislature is well informed as to the circumstances pertinent to law when it passes it. **Sandoval v. Rodriguez**, 77 N.M. 160, 420 P.2d 308 (1966).

When it was first enacted, the Game and Fish Bond Act authorized the issuance of one million dollars worth of bonds. Laws 1964, Chapter 18, § 3. The Commission sold one million dollars' worth of bonds in 1965. In 1968 the Act was amended to authorize the issuance of an additional one million dollars' worth of bonds. Laws 1968, Chapter 47, § 1. The Commission issued and sold that additional amount. By December of 1974, all bonds sold pursuant to the Act had been retired. Thus, when the legislature considered and passed the 1976 amendments to the Act, the Commission had issued, sold, and retired the two million dollars' worth of bonds previously authorized by the Act.

These facts compel us to conclude that the purpose and effect of the 1976 amendments is the authorization of an additional two million dollars' worth of bonds. We are so compelled by the consequences of concluding that no additional bonds are authorized. If no additional bonds are authorized, all of the amendments become useless and meaningless. There is no reason to change the phrasing of the maximum amount to be issued, to change the maximum interest to be paid, to increase the amounts payable to the bond retirement fund, or to add the reporting requirement if no additional bonds are to be issued. The amendments pertaining to maximum amount of bonds authorized, the maximum interest rates, and the reporting requirement do not produce any effective change in the law if no additional bonds are to be issued.

Given these consequences, we would violate at least two well established canons of statutory construction were we to conclude that no additional bonds are authorized by the amendment. The courts will not adopt an interpretation of a statute which imputes to the legislature an intention to enact a useless statute. **Griego v. Health and Social Services Dept.**, 87 N.M. 462, 535 P.2d 1088 (1975). The courts consider the adoption of a statutory amendment as evidence of a legislative intent to change the original law. **Stang v. Hertz Corp.**, 81 N.M. 69, 463 P. 2d 45 (1970). We must follow the lead of the courts and give the statute an interpretation which would avoid absurd results and which accords with common sense. **Westland Dev. Corp. v. Saavedra**, 80 N.M. 615, 459 P.2d 141 (1969); **Trujillo v. Romero**, 80 N.M. 301, 481 P.2d 89 (1971).

The only interpretation of these amendments which makes sense is that they effect the authorization of an additional two million dollars' worth of bonds. We conclude that the State Game Commission has the authority to issue and sell up to two million dollars' worth of bonds pursuant to the terms and conditions of the Game and Fish Bond Act.